

Application No. 10/054,741  
Amendment "C" dated July 29, 2005  
Reply to Office Action mailed May 5, 2005

### **REMARKS**

These remarks and the accompanying amendments are responsive to the Office Action made final and mailed May 5, 2005, having a shortened statutory period for response that expires August 5, 2005 (hereinafter referred to as "the Office Action"). At the time of the last examination, Claims 1, 3, 5-7, 9 and 11-14 were pending. By this amendment, Claims 3, 9 and 14 are cancelled, leaving just Claims 1, 5-7 and 11-13 pending for further consideration by the examiner. Each of these claims are currently amended herein. Claims 1, 7 and 13 are independent claims.

As the Office Action is final, the undersigned recognizes that there are only limited cases authorized under 37 C.F.R. 1.116 in which amendments may be filed after final without having filed a Request for Continued Examination (RCE). In this case, Claims 1 is amended to include all of the features of now cancelled Claim 3. Similarly, Claim 7 is amended to include all of the features of now cancelled Claim 9, which is equivalent to the cancellation of Claim 7, and the redrafting of Claim 9 in independent form. Finally, Claim 13 is amended to include all of the features of now cancelled Claim 14. As these amendments do not touch the merits of the case, entry is respectfully requested under 37 C.F.R. 1.116.

Section 2 of the Office Action rejects all of the independent claims 1, 7 and 13 under 35 U.S.C. 102(b) as being anticipated by United States patent 5,267,261 (hereinafter referred to as "Blakeney"). Each independent claim (claims 1, 7 and 13 as amended) recites that the quality control means determines (or includes means for determining) "to which base stations the mobile station is to be connected in order to satisfy [a] downlink receiving quality desired by the mobile station". Blakeney does not disclose such a quality control means. Accordingly, withdrawal of the 35 U.S.C. 102(b) rejection of Claims 1, 7 and 13 is appropriate and requested.

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Section 4 of the Office Action rejects Claims 3, 9 and 14 as under 35 U.S.C. 103(a) as being unpatentable over Blakeney in view of United States patent number 6,633,762 (hereinafter referred to as "Rauscher". This rejection is now moot in light of the cancellation of Claims 3, 9 and 14. However, the features of now cancelled claims 3, 9 and 14 have been incorporated by amendment into their corresponding independent claim. However, Rauscher also does not disclose such a quality control means that determines "to which base stations the mobile station is to be connected in order to satisfy [a] downlink receiving quality desired by the mobile station" as recited in each of the independent claims. Therefore, the independent claims are not rendered unpatentable over even the combination of Blakeney and Rauscher<sup>1</sup>.

Section 5 of the Office Action rejects Claims 5 and 11 under 35 U.S.C. 103(a) as being unpatentable over Blakeney in view of Rauscher and further in view of United States patent number 6,438,377 (hereinafter "Savolainen") and United States patent number 6,259,927 (hereinafter "Butovitsch"). However, Savolainen and Butovitsch also do not teach or suggest such a quality control means. Therefore, even the combination of Blakeney, Rauscher, Savolainen, and Butovitsch do not teach or suggest the independent claims 1, 7 and 13. Therefore, Claims 5 and 11 are also not unpatentable over this combination for at least the same reasons as their corresponding independent claim<sup>2</sup>. Thus, withdrawal of this 35 U.S.C. 103(a) rejection is appropriate and requested.

<sup>1</sup> Since even the combination of Blakeney and Rauscher do not teach or suggest all of the features of the independent claims, it is not necessary for a full response to argue against the combination of Blakeney and Rauscher. The applicants reserve the right to make such arguments should that become necessitated by future action by the United States Patent and Trademark Office.

<sup>2</sup> Since even the combination of Blakeney, Rauscher, Savolainen, and Butovitsch do not teach or suggest all of the features of the rejected claims, it is not necessary for a full response to argue against this combination. The applicants reserve the right to make such arguments should that become necessitated by future action by the United States Patent and Trademark Office.

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Section 6 of the Office Action rejects Claims 6 and 12 under 35 U.S.C. 103(a) as being unpatentable over Blakeney in view of Rauscher and further in view of United States patent number 5,781,861 (hereinafter "Kang"). However, Kang also do not teach or suggest the quality control means as recited. Therefore, even the combination of Blakeney, Rauscher, and Kang do not teach or suggest the independent claims 1, 7 and 13. Therefore, Claims 6 and 12 are also not unpatentable over this combination for at least the same reasons as their corresponding independent claim<sup>3</sup>. Thus, withdrawal of this 35 U.S.C. 103(a) rejection is appropriate and requested.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 29<sup>th</sup> day of July, 2005.

Respectfully submitted,



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<sup>3</sup> Since even the combination of Blakeney, Rauscher, and Kang do not teach or suggest all of the features of the rejected claims, it is not necessary for a full response to argue against this combination. The applicants reserve the right to make such arguments should that become necessitated by future action by the United States Patent and Trademark Office.